

AI for ALL: Steering the UK Towards Responsible AI Development

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This article is part of a broader research project focused on developing a comprehensive, sector-specific corporate framework tailored to the unique challenges posed by the AI development in the UK.

The emergence of Artificial Intelligence (AI) marks a new technological revolution. While AI has an immense potential to contribute to the UK's economy,¹ its rapid development also brings challenges, such as privacy erosion and workforce displacement² that are already transitioning from theoretical concerns to tangible issues. The UK's principle-based AI regulatory approach,³ is progressive but incomplete. It overlooks the critical influence of corporate governance on the conduct of companies engaged in AI development. As the UK Government has recently initiated a public consultation on whether the AI industry should be subjected to specific corporate governance mechanisms,⁴ this research seeks to bridge regulatory gaps by developing a sector-specific corporate framework that anticipates and addresses the challenges inherent to AI to foster its responsible development.

The article argues that reform should go further than reforming mere corporate governance measures contemplated by the Government, calling for a radical reassessment of relevant laws and regulations governing corporations. It advocates for the development of an industry-specific corporate framework designed to promote responsible AI development by balancing the goals of innovation, international competitiveness, and equitable economic growth. A key strategy for regulating AI effectively presented by the paper involves shifting the regulatory focus to the companies at the forefront of AI technology development. By addressing governance at the company level, the proposed reform aims to tackle the challenges if AI regulation at their source.

Adequate corporate regulation can be proactive in governing the conduct of companies, by anticipating and addressing potential issues related to AI technology through the establishment of systems, policies, and practices that encourage sustainable operations aligned with the

¹ Department for Science, Innovation and Technology, Growing the Artificial Intelligence Industry in the UK, Independent Report by Dame Wendy Hall and Jerome Pesenti, October 2017.

² Department for Science, Innovation and Technology, Capabilities and Risks from Frontier AI. A Discussion Paper on the Need for Further Research into AI Risk, October 2023.

³ Department for Science, Innovation and Technology, Pro-innovation Approach to AI Regulation, March 2023.

⁴ Department for Science, Innovation and Technology, Pro-innovation Approach to AI Regulation: Government Response to Consultation, February 2024.

interests of all stakeholders, including shareholders, employees, and the wider community. However, drawing lessons from the US, particularly recent developments within the AI sector such as the OpenAI boardroom battle⁵ and aggressive competition prioritising profit at the expense of caution and diligence,⁶ the article highlights the limitations of corporate self-regulation. It underscores the need for adequate laws and external governance structures that promote public welfare and safety, while also safeguarding innovation.

This paper addresses the first two objectives of a broader research project aimed at designing a sector-specific corporate regulatory framework that supports the UK's goals of innovation, sustainable growth, international competitiveness, and equitable economic benefits in the AI sectors, namely:

1. Defining objectives for a sector-specific corporate framework: This involves establishing key goals for sustainable AI development, such as encouraging innovation, optimising the cost of capital, driving economic growth, promoting positive stakeholder impact, and strengthening international competitiveness.
2. Identifying areas for sector-specific adaptation: this step reassesses existing laws and regulations governing corporate objectives, director's duties, board of directors' composition, takeovers and other relevant areas to determine which measures require modification for the AI industry.

The paper proposes a re-evaluation of key provisions of the current UK Corporate Governance Code, directors' duties under Section 172 of Companies Act 2006, and Rule 21 of the Takeover Code. It contends that the UK's existing shareholder-oriented corporate framework may inadvertently exacerbate the challenges posed by AI by prioritising short-term profits for shareholders and not adequately addressing the broader societal and economic implications of corporate conduct. Since the impact of AI companies on society is likely to be systemic and far greater than that of conventional industries,⁷ it requires a corporate framework that ensures that AI developers extend their vision beyond financial returns.

The article further argues that adjusting the UK's merger control for this particular sector is also imperative to promote responsible innovation and safeguard against the unchecked expansion of power coming from anticipated consolidation within the AI market, the market that already leans towards concentration of power in the hands of a few dominant entities.⁸ It considers the relevance and possibility of expansion of the Public Interest Test in merger control for the AI sector.

⁵ Noam Wasserman, OpenAI's Failed Experiment in Governance, *Harvard Business Review* (30 November 2023) <https://hbr.org/2023/11/openai-failed-experiment-in-governance>, accessed 22 February 2024.

⁶ Future of Life, Policymaking in the Pause, April 2023.

⁷ influencing everything from individual rights to national security, see Department for Science, Innovation and Technology, Capabilities and Risks from Frontier AI. A Discussion Paper on the Need for Further Research into AI Risk, October 2023.

⁸ See, for example, Competitions and Market Authority, AI Foundation Models: Initial Report, September 2023; Luca Bertuzzi, Are EU Regulators Ready for Concentration in the AI Market?, *Euroactiv* (3 November 2023); 2023.Senate Judiciary Subcommittee Hearing on Oversight of AI, 16 May 2023.

The reforms contemplated in the article are intended to ensure that the benefits of the AI technological revolution are widely shared, preventing further exacerbation of social inequalities – a pressing issue in the UK, where wealth disparities are already highly pronounced⁹. Given AI's inherent potential to disrupt labour markets and deepen social disparities¹⁰, the reforms are proposed to mitigate these risks and promote more equitable outcomes.

By addressing regulatory gaps in the current AI framework this research has the potential to shape policy design and corporate laws governing AI developers. The research might also benefit AI companies and start-ups by influencing corporate strategies for responsible innovation. Moreover, academic circles and research communities stand to gain from the insights generated by this timely study, which aims to contribute to the international dialogue on AI regulation, addressing a notable gap in current research concerning the corporate governance of AI developers. To date, this area has seen limited global focus.

⁹ Pascale Bourquin, Mike Brewer and Tom Wernham, Trends in Income and Wealth Inequalities, The IFS Deaton Review of Inequalities, November 2022.

¹⁰ International Monetary Fund, Gen-AI: Artificial Intelligence and the Future of Work, IMF Staff Discussion Notes, January 2024.